

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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ROBERTO RIOS,

Petitioner,

v.

Case No. 09-CV-77

TIMOTHY LUNDQUIST,

Respondent.

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**ORDER**

On January 16, 2009, Roberto Rios ("Rios") filed a petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Docket #1). After reviewing Rios's petition, the court dismissed it pursuant to Rule 4 of the Rules Governing Section 2254 Proceedings (Docket #3). On February 2, 2009, Rios filed a motion for reconsideration. (Docket #5). After some delay, Timothy Lundquist has responded to Rios's motion with a motion to stay further proceedings in this action. (Docket #15).

In support of his motion, the respondent, through the Wisconsin Attorney General's Office, states that he believes that the Wisconsin Court of Appeals erred in denying Rios's request to reinstate his direct appeal rights. According to the motion, the Wisconsin Attorney General's Office has filed a petition with the Wisconsin Court of Appeals asking that Rios's direct appeal rights be reinstated. The respondent asks that the court stay proceedings in this case, claiming that a

decision by the Wisconsin Court of Appeals could resolve the claims in Rios's habeas petition. The court agrees.

Because it now appears that the court erred in dismissing Rios's case in the first instance, the court will grant Rios's motion for reconsideration made pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. Furthermore, the court will stay this action pending the disposition of the Wisconsin Attorney General's petition in the Wisconsin Court of Appeals. The parties are directed to notify the court in writing of the resolution of the state court proceedings in this matter.

Accordingly,

**IT IS ORDERED** that petitioner's motion for reconsideration (Docket #5) be and the same is hereby **GRANTED**;

**IT IS FURTHER ORDERED** that the court's January 23, 2009 order and judgment dismissing Rios's petition for a writ of habeas corpus (Docket #'s 3 and 4) be and the same are hereby **VACATED** and this action is hereby **REINSTATED**;

**IT IS FURTHER ORDERED** that respondent's motion to stay proceedings (Docket #15) be and the same is hereby **GRANTED** and this action is hereby **STAYED** pending the outcome of the Wisconsin Attorney General's petition to the Wisconsin Court of Appeals seeking reinstatement of the petitioner's direct appeal rights; the parties shall notify the court in writing of the resolution of the Wisconsin Attorney General's petition to the Wisconsin Court of Appeals.

**IT IS FURTHER ORDERED** that respondent's motion for extension of time  
(Docket #13) be and the same is hereby **GRANTED**;

Dated at Milwaukee, Wisconsin, this 3rd day of September, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller  
U.S. District Judge